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Hidetake Segawa

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04/25/2008

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EXAMINER

LEUBECKER, JOHN P

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



***Election/Restrictions***

1. Applicant's election of Group I in the reply filed on January 28, 2008 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 2, 5, 7, 9 and 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 10, term "the returning direction of the fixing frame" lacks antecedent basis and is unclear how a element in general ("fixing frame") can have a "direction". It is still unclear as to the intended meaning of "positioning the movable frame in advancing and returning directions of the optical path by advancing or returning the movable frame to a guide portion in the direction of the optical path". Particularly is not clear whether it is intended for a feature of the movable frame to be merely aligned in a particular direction (optical path direction), for the

movable frame to actually move in a particular direction, or both. In addition, the terms “advancing” and “returning”, used in the alternative, to describe the relationship of the movable frame to the guide portion (“advancing or returning the movable frame to the guide portion”) is confusing since "advancing" an element to something and "returning" and element to something appear to be the indicating the same action.

***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 4, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Takizawa et al. (US 2003/0020810) for the reasons set forth in numbered paragraph 6 of the previous Office Action, paper number 20070704.

7. Claims 1, 4, 6, 8 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokoi et al. (U.S. Pat. 7,022,066).

The structure of Figure 4A was inherently assembled. The fixing frame (26) is aligned on chip (23) as shown in Figure 4B, meaning that any reference position of the fixing frame (e.g., outer diameter of lens 25, leg part 27 etc.) "matches" any reference position (imaging area 23a, circuit parts 43, etc.) of the chip. Circuit parts (43) are exposed outside of the fixing frame thus making the frame connected to a part of the chip having no connecting terminals.

***Response to Arguments***

8. Applicant's arguments filed October 12, 2007 have been fully considered but they are not persuasive.

Regarding the Takizawa reference, Applicant implies that it can not be determined how the structure of Takizawa was assembled and thus the rejection is improper. Unless all the elements are formed of the same material, made of one piece and formed together at the same time (which is impossible), then they are inherently assembled. That is all that is required in claim 1. A "reference position" can be any position. A position or element being in some relationship with some other position or element constitutes being "matched". Thus, the mere fact that the fixing frame of Takizawa was positioned on the imaging chip (and it was to be assembled) anticipates matching some reference position (which can be any) of the frame to some reference position (which can be any) of the imaging chip. And inherently, since the fixing frame includes lenses which are aligned with the imaging area of the imaging chip (to be functional), the frame was "matched" with the imaging area.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John P. Leubecker/  
Primary Examiner  
Art Unit 3739

jpl